HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:19672 OF 2007

Dated: 31.10.2007

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Between:

The Government of A.P., rep., by its
Principal Secretary to Government
Agriculture & Co-operation (F.P.I)
Department, A.P. Secretariat, Hyderabad and another.
..**Petitioners**

And

Godey Jagannadha Rao
..**Respondent**

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
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ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioners aggrieved by an order, dated 14.9.2006 passed by the A.P. Administrative Tribunal in O.A.No.1062 of 2006.

The respondent herein is the applicant before the Tribunal. He filed the above O.A., seeking to declare the action of the respondents in not considering his case for notional promotion for the post of Senior Joint Director by the date of 19.12.1985 on the ground that he was not in service for promotion of Senior Joint Director of Agriculture as arbitrary and illegal and to direct the respondents to give notional promotions and consequential benefits with effect from 19.12.1985 in pursuance of the Judgment of the Supreme Court, dated 19.8.1985.

The tribunal having observed that the applicant was not re-inducted and his case was not considered for promotion on the ground that there were two more seniors to the applicant for promotion to the post of Senior Joint Director on the date when the applicant's junior one S. Venkat Reddy was promoted and as per the guidelines issued by the Government in memo No.2113/Services.A85-4, dated 22.11.1985 and the judgment of the apex Court dated 19.8.1985, the applicant is entitled to be considered for notional promotion from the date when the junior of the applicant viz., Venkata Reddy has been promoted to the post of Senior Joint Director, allowed the O.A., directing the respondents to reconsider the case of the applicant for notional promotion in the cadre of Senior Joint Director from the date

when the applicant's junior is promoted and refix the pension of the applicant on the basis of notional promotion and pay the difference of pension. Having aggrieved by the same, the Government preferred the present writ petition.

Heard the learned Government Pleader and the learned Counsel appearing for the respondent-applicant.

It is the contention of the learned Government Pleader that in case of promotion to any junior, an appeal lies under the provisions of Rule 26 of A.P. State & Subordinate Service Rules, within 90 days from the date on which the junior was promoted. But, after lapse of two decades, the applicant has been claiming the notional promotion and in case the said claim is entertained, it may disturb the settled seniority, which is a difficult task and therefore, the tribunal is not justified in failing to consider the long lapse of delay in entertaining the O.A. and hence, the order impugned is liable to be set aside.

On the other hand, the learned Counsel for the respondent-applicant contended that though there was a delay in filing the O.A., the same was condoned on payment of sufficient costs of Rs.9,000/- and therefore, it can be said that there are bonafides on the part of the applicant in approaching the tribunal. It is further contended that basing on the guidelines laid down by the apex Court under which the applicant is entitled to be granted notional promotion, the tribunal has passed the order impugned and hence, the order impugned does not suffer from legal infirmity.

Before going into the merits of the case, it is pertinent to note that there is no dispute that the applicant retired from service on

31.8.1983 on attaining the age of 55 years in view of the reduction of age of superannuation from 58 to 55 years by the Government and that the present O.A. has been filed by the applicant after two decades.

Though it is contended that the applicant had made representations for the relief that is sought for in the O.A., but it should not be lost sight of the fact that it is a settled proposition that mere representations will not save the limitation in relation to any cause of action.

Thus, admittedly, there was an abnormal inordinate delay in filing the O.A. The silence on the part of the applicant for about more than two decades leads to draw an adverse inference against the bonafides of the applicant in approaching the tribunal at this length of time. The peculiar circumstance, under which, the applicant is claiming the relief, is an outcome of the memo issued by the Government on 22.11.1985. According to the applicant, he has to retire from service on 31.8.1986 after attaining the age of 58 years as per the judgment of the Apex Court as well as the memo dated 22.11.1985. If that being the case, it is not known as to what are the circumstances, under which the applicant could not pursue his remedy within the reasonable time so as to enable the authorities to take appropriate action in a proper perspective. Therefore, it is needless to observe that granting the relief as sought for, after a length of two decades, would lead to drive the Government to a difficult task as it would amount to opening of the flood gates, through which every retired employee may approach with the similar relief to take their chance. In view of the

changed circumstances and the non-availability of records due to destruction etc., as a whole, it can be said that issue in controversy would be an impediment for smooth running of the administration. In this view of the matter, We feel that the application seeking to condone the long unexplained delay in filing the O.A., should not have been entertained and consequently, in view of the long delay, the O.A. itself is not maintainable. Therefore, the order impugned herein is liable to be set aside.

Accordingly, this writ petition is allowed and the order impugned is set aside.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 31st October, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:19672 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

31.10.2007

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